

Remarks/Argument

Summary of Amendments

By this Amendment, the specification and claims 7 and 19 have been revised to correct the informalities identified by the Examiner, and non-elected claims 24-33 have been cancelled.

Claims 1-23 remain pending in the application.

35 U.S.C. ¶102

Claim 1 was rejected under 35 U.S.C. ¶102 as being anticipated by any one of Namiki et al. (US 4395139), Chevallier (US 5875142) and Misawa et al. (US 4465379). Applicants respectfully traverse this rejection.

In the Office Action, the Examiner states:

“Each of these references clearly teaches a temperature sensor circuit having a comparator, at least four serially coupled resistors and a switching circuit for selectively bypassing the resistors. Note Fig. 4 of Namiki et al; Fig. 5 of Chevallier and Fig. 12 of Misawa et al.”

In response, Applicants respectfully point out that claim 1 recites more than the combination identified by the Examiner. That is, according to claim 1, comparator circuit includes an output node and a variable current node, wherein the output node is a first voltage at a given temperature when a current at the variable current node is less than a threshold current, and a different second voltage at the given temperature when the current at the variable current node is more than the threshold current. Also, according to claim 1, the variable resistance circuit including at least n resistors connected in series between the variable current node of the comparator and a reference voltage. Still further,

according to claim 1, the n resistors have different resistance values, and the switching circuit selectively bypasses individual ones of the n resistors.

The switching elements 18_1 through 18_n of Namiki et al. do not bypass individual ones of the resistors 19_1 through 19_n . Rather, the resistors 19_1 through 19_n function as a variable voltage divider to the positive input of the comparator 12, and, as explained at col. 3, lines 38-50, only one of the switching elements 18_1 through 18_n is closed at any given time. For at least these reasons, Namiki et al. does not anticipate claim 1.

Likewise, the resistors R_1 through R_{N-1} of Misawa et al. also function as a variable voltage divider to the positive input of the comparator 226. The switching transistors T_1 through T_{N-1} set the voltage dividing point, i.e., the switching transistors T_1 through T_{N-1} do not bypass individual ones of the resistors R_1 through R_{N-1} . For at least these reasons, Misawa et al. does not anticipate claim 1.

Finally, the voltage divider circuit 202 of Chevallier includes series connected resistors for supplying reference voltages R_1 - R_4 to respective differential amplifiers 204, 206, 208 and 210. There is no teaching in Chevallier of switching circuitry for bypassing individual ones of these series-connected resistors. For at least these reasons, Chevallier does not anticipate claim 1.

35 U.S.C. §103

Claims 2-23 were rejected under 35 U.S.C. §103 as being obvious over the teachings of Namiki et al. (US 4395139), Chevallier (US 5875142) and Misawa et al. (US 4465379). Applicants traverse this rejection on several grounds.

First, contrary to well-established Patent Office guidelines, the Examiner has not specifically addressed all the features of claims 2-23.

Second, the so-called "Official Notice" taken by the Examiner is not understood in the context of the rejection (which claim or claim is being rejected

on this basis?), and accordingly, the Office Notice is traversed to the extent that the Examiner contends the combinations defined by the present claims are obvious.

Third, also contrary to well-settled Patent Office guidelines, the Examiner fails to address the motivation of one skilled in the art to modify the cited references.

Respectfully, the burden in rejecting claims over the prior art lies with the Patent Office. In this case, the Examiner has not established a *prima facie* case of obviousness. See, for example, the following passage appearing in M.P.E.P. 2144.03.

It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. Zurko, 258 F.3d at 1385, 59 USPQ2d at 1697 ("[T]he Board cannot simply reach conclusions based on its own understanding or experience—or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings."

The record is completely devoid of any evidentiary support for the Examiner unsubstantiated statement that claims 2-23 would have been obvious to one of ordinary skill in the art.

Conclusion

No other issues remaining, reconsideration and favorable action upon the claims 1-23 now pending in the application are requested.

Respectfully submitted,

Volentine Francos & Whitt, PLLC

By:



Adam C. Volentine
Registration No. 33,289

Date: March 28, 2005

Volentine Francos & Whitt, PLLC
11951 Freedom Drive, Suite 1260
Reston, VA 20190
571.283,0720